THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 19412 OF 1995

Dated 5th February, 2007

Between:

M.J.Bhaskar Rao

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Petitioner
And

The Board of Governors, Wesley Boys' Degree College, Secunderabad, represented by its Chairman, Rev. B.P. Sugandhar, Bishop CSI, Medak Diocis, Diocean Office, Old Lancer Lane, Secunderabad – 25 and others.

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Respondents.

ORAL ORDER:

The petitioner, who retired as a Principal of Wesley Boys' Degree College, has filed this writ petition seeking a writ of mandamus to declare the action of the respondents in not fixing his pension and gratuity by reckoning his past service rendered in Anwar-ul-loom College, as illegal and arbitrary.

It is stated that the petitioner was originally appointed as Lecturer in Economics in Anwar-ul-loom Degree College (Aided) in 1960 and continued as such till 31.12.1973. Thereafter, on 1.1.1974, he was appointed as Principal of Wesley Boys' Junior College and High School, Secunderabad. He retired as Principal on 31.12.1993 on attaining the age of superannuation. In the writ petition the petitioner has claimed relief with regard to the pension also. It is submitted that at the time of hearing of the writ petition, all the benefits are worked out and paid except the gratuity amount of Rs.63,701. The said figure is arrived at by the learned counsel for the petitioner and is admitted to be correct by the learned Standing Counsel for respondents.

Learned counsel for the petitioner submits that the petitioner is also entitled for interest on the said amount of gratuity as the said amount which became payable on the date of retirement is not paid till date. To the said effect, he relied upon a decision of the Supreme Court in **Vijay L.Malhotra v. State of U.P.**[1]

The learned counsel appearing for the respondents

while accepting that the gratuity amount of Rs.63,701/- is not paid, submitted that the same was not paid because certain allegations were made against the petitioner with regard to receipt of excess funds from the Sports Authority of India to the tune of Rs.69,539/-. The said amount was released by the Sports Authority of India and utilized by the college when the petitioner worked as Principal. Further, it is submitted that the petitioner has failed to finalise the accounts of the Computer Centre and made some appointments without approval of the competent authority.

In this case, it is not in dispute that an amount of Rs. 63,701/- is payable to the petitioner on account of gratuity consequent to his retirement. Though it is submitted that several allegations are made, but the fact remains that there is no order passed fixing individual liability on the petitioner to recover any amount. In the absence of any orders on the allegations, there appears to be no reason for withholding the gratuity amount of Rs.63,701/-, and, as the same is not paid since 1993, in view of the judgment of the Supreme Court relied on by the learned counsel for the petitioner, wherein it was held that the retiral benefits should be paid on the date of retirement or soon thereafter, it has to be paid along with interest. Though some explanation is sought to be offered, but the same cannot be accepted for not paying the gratuity for this length of time.

In that view of the matter, I dispose of the writ petition directing the respondents to pay the gratuity amount of Rs.63,701/- which is admittedly due to the

petitioner with interest at the rate of 10% per annum from the date of retirement i.e. 31.12.1993 till payment.

Subject to above direction, the writ petition is disposed of. No costs.

5.2.2007 **R.SUBHASH REDDY, J.**

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[1] AIR 2000 SC 3513